



APPLICATION ACCEPTED: June 23, 2014
DATE OF PUBLIC HEARING: September 24, 2014
TIME: 9:00 a.m.

County of Fairfax, Virginia

September 17, 2014

STAFF REPORT

SPECIAL PERMIT SP 2014-PR-126

PROVIDENCE DISTRICT

APPLICANT/OWNER: Duc Dang

LOCATION: 2855 Pine Spring Rd, Falls Church, 22042

SUBDIVISION: Pine Spring

TAX MAP: 50-3 ((19)) (6) 10

LOT SIZE: 13,640 square feet

ZONING: R-4, HC

ZONING ORDINANCE PROVISION: 8-914, 8-923

SPECIAL PERMIT PROPOSAL: To permit reduction in minimum yard requirements based on an error in building location to permit additions to remain 24.6 ft. and 23.8 ft. from one front lot line, an addition to remain 22.0 ft. from other front lot line, a deck to remain 0.1 ft. from side lot line, and a fence greater than 4 ft. in height to remain in the front yard of a corner lot.

STAFF RECOMMENDATION: Staff recommends approval of SP 2014-PR-126 for a fence located in a front yard with the adoption of the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five days after the decision becomes final.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

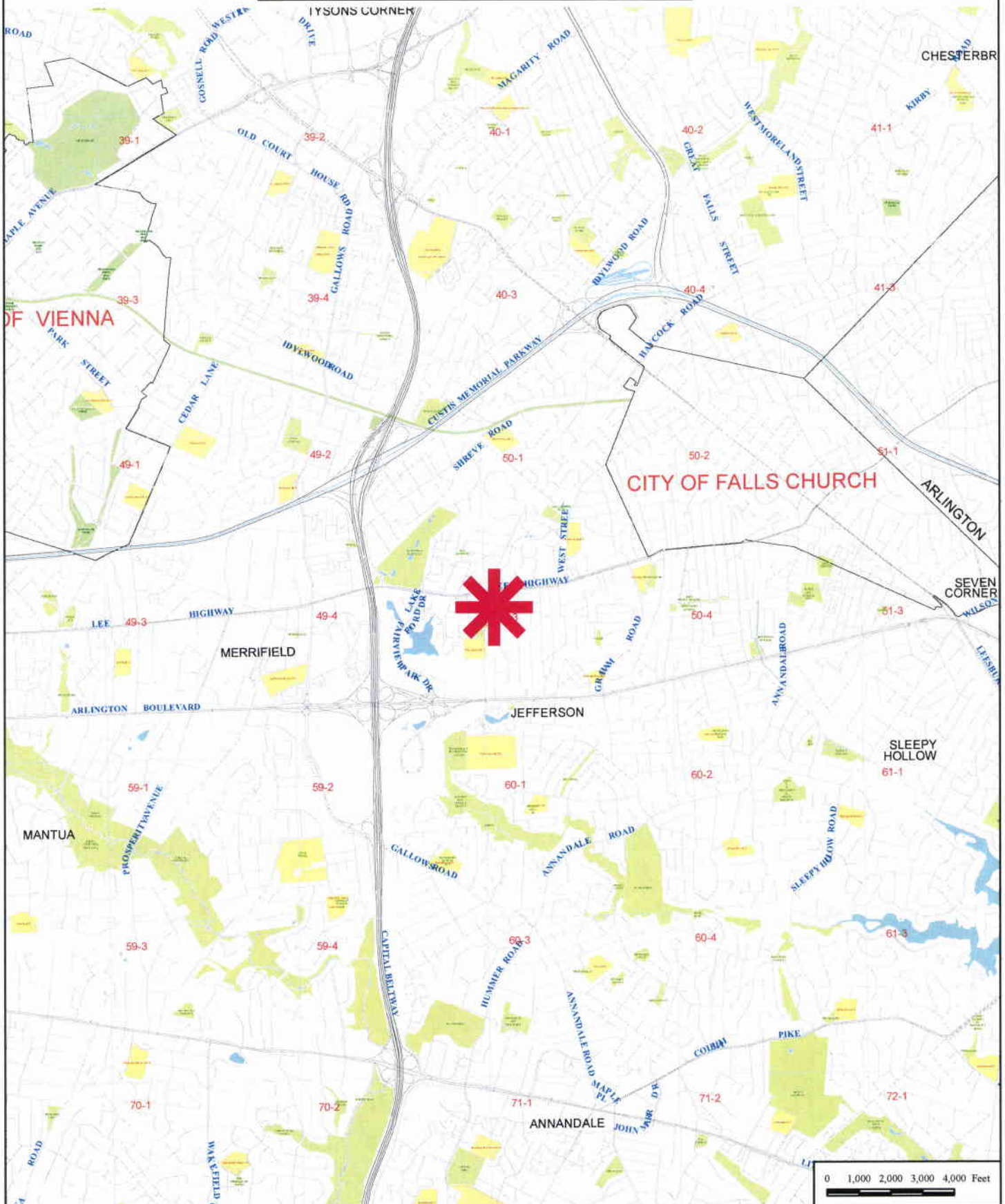
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2014-PR-126
DUC DANG

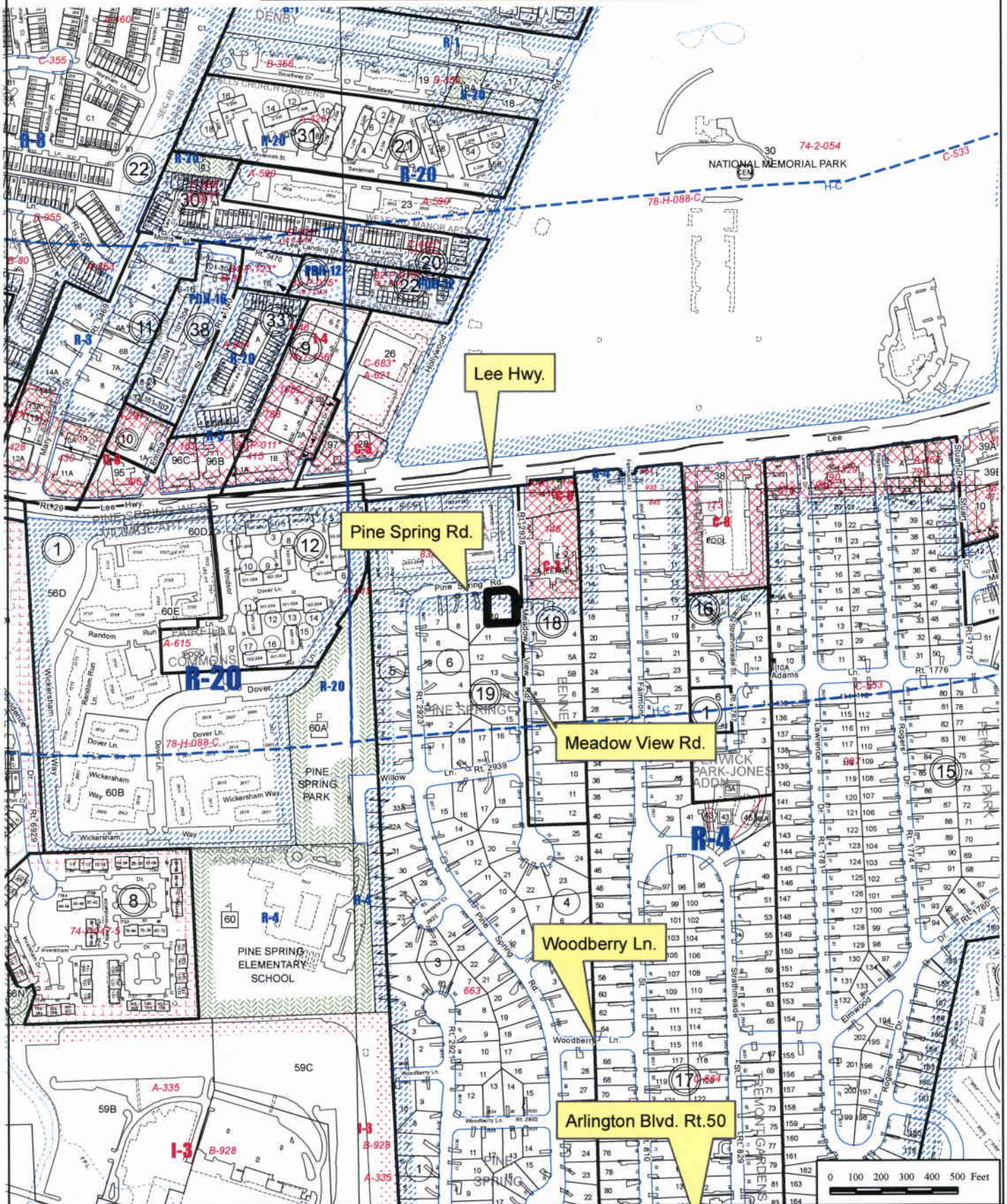


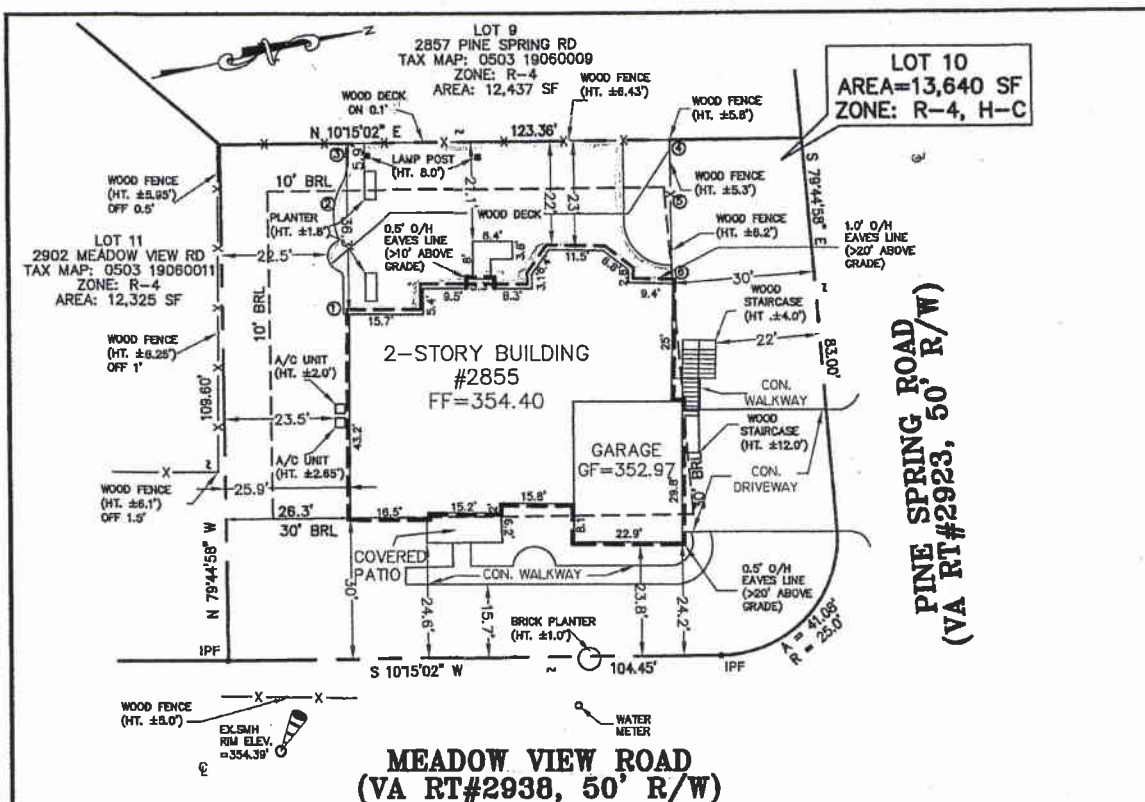
0 1,000 2,000 3,000 4,000 Feet

Special Permit

SP 2014-PR-126

DUC DANG





DECK HEIGHT CALCULATION

SPOTS	HT. OF DECK ABOVE GRADE
1	0.2'
2	0.45'
3	0.83'
4	1.87'
5	1.37'
6	1.10'

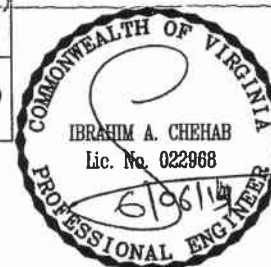
AVG. DECK HEIGHT

$$= (0.2 + 0.45 + 0.83 + 1.87 + 1.37 + 1.1) / 6$$

$$= 5.82 / 6 = 0.97'$$

SETBACK TABLE (ZONE R-4 H-C)

	REQUIRED
FRONT (TOWARDS PINE SPRING RD) (TOWARDS MEADOW VIEW RD)	30' (MIN.)
SIDE (TOWARDS LOT 9) (TOWARDS LOT 11)	10' (MIN.)



NOTES:

1. THE PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
2. THE SURVEY WAS NOT PREPARED FOR CONSTRUCTION PURPOSES (INCLUDING FENCES).
3. THE LOCATION OF FENCES ARE APPROXIMATE AND DO NOT CERTIFY TO OWNERSHIP.
3. THE PROPERTY SHOWN ON THIS PLAT IS LOCATED ON TAX MAP # 50-3-(1906)-0010
4. IPF-IRON PIPE FOUND, A/W- AREAWAY.
5. THE LOT SHOWN HEREON APPEARS TO PLOT IN FLOOD ZONE "X" AREA DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAIN, AS SHOWN ON FEMA MAP #51059C0280E EFFECTIVE DATE: SEPTEMBER 17, 2010.
6. THIS PLAT IS A RESULT OF FIELD RUN SURVEY BY USING TOTAL STATION (EDM).
7. NO KNOWN GRAVE SITE OR BURIAL SITE EXIST ON THE LOT.
8. THE PROPERTY IS SERVED BY PUBLIC WATER AND SANITARY SEWER SYSTEM.
9. THERE ARE NO KNOWN UTILITY EASEMENTS HAVING A WIDTH OF 25 FEET OR MORE ON SITE.
10. THERE ARE NO KNOWN MAJOR UTILITY EASEMENTS ON SITE.
11. THERE ARE NO WELL OR SEPTIC FIELD ON SITE.

SPECIAL PERMIT PLAT

LOT 10, BLOCK 6, SECTION 5
 2855 PINE SPRING
 PROVIDENCE DISTRICT
 FAIRFAX COUNTY, VIRGINIA 22042

SCALE 1"= 30' , DATE: JUNE 12, 2013

RECEIVED
 Department of Planning & Zoning

JUN 10 2014

Zoning Evaluation Division



PREPARED BY

GeoEnv Engineers

Civil, Environmental & Geotechnical Engineering

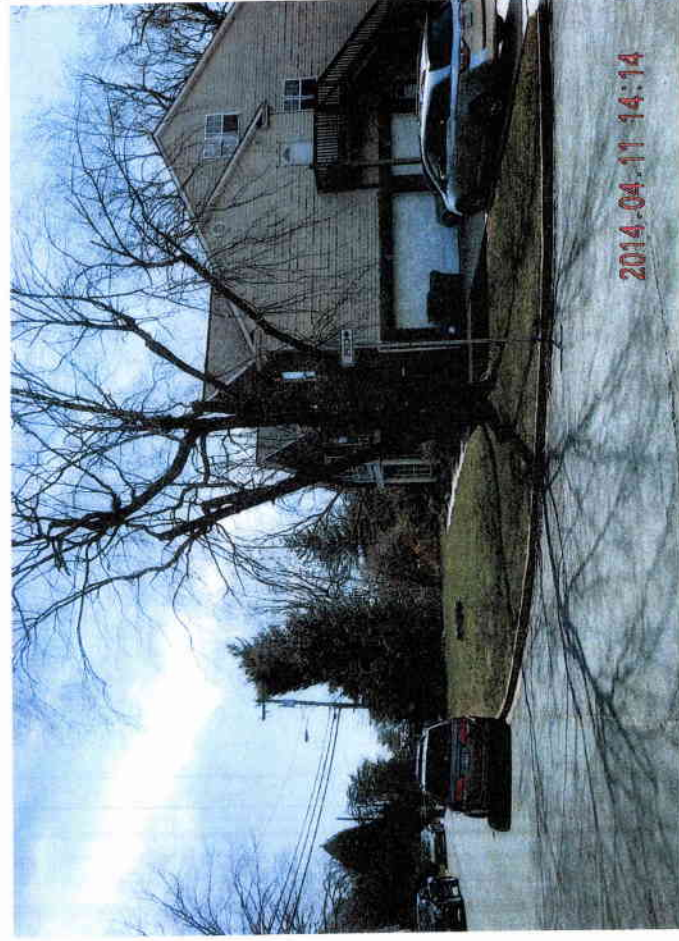
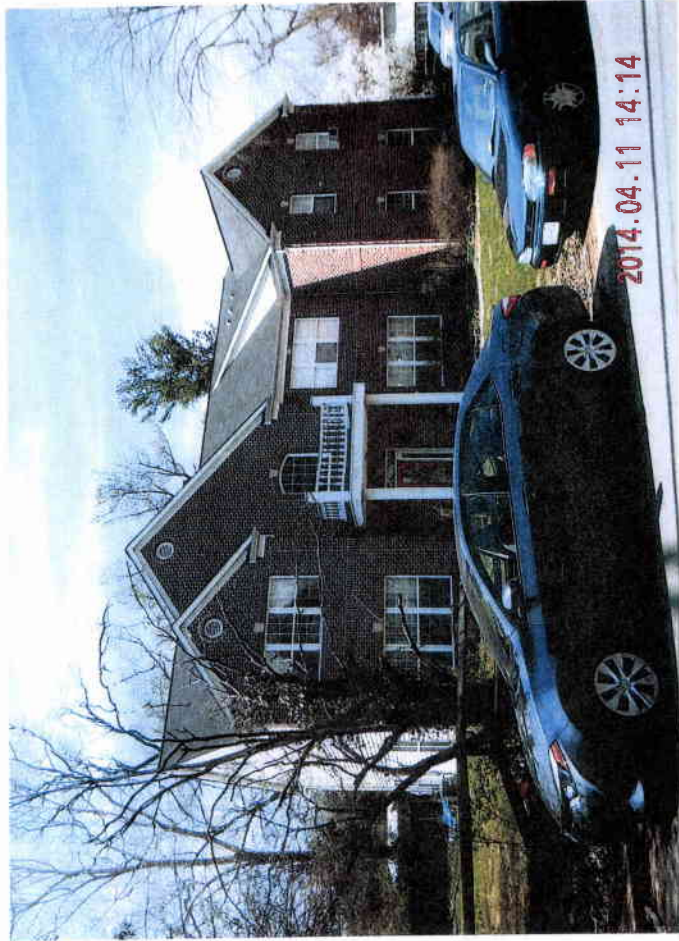
10875 Main Street, Suite 213

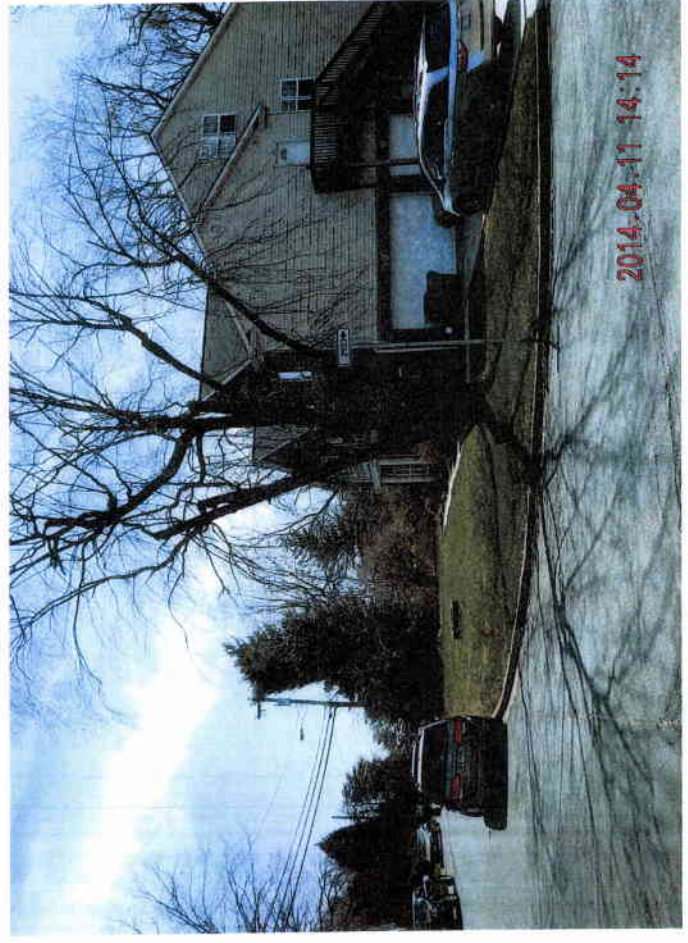
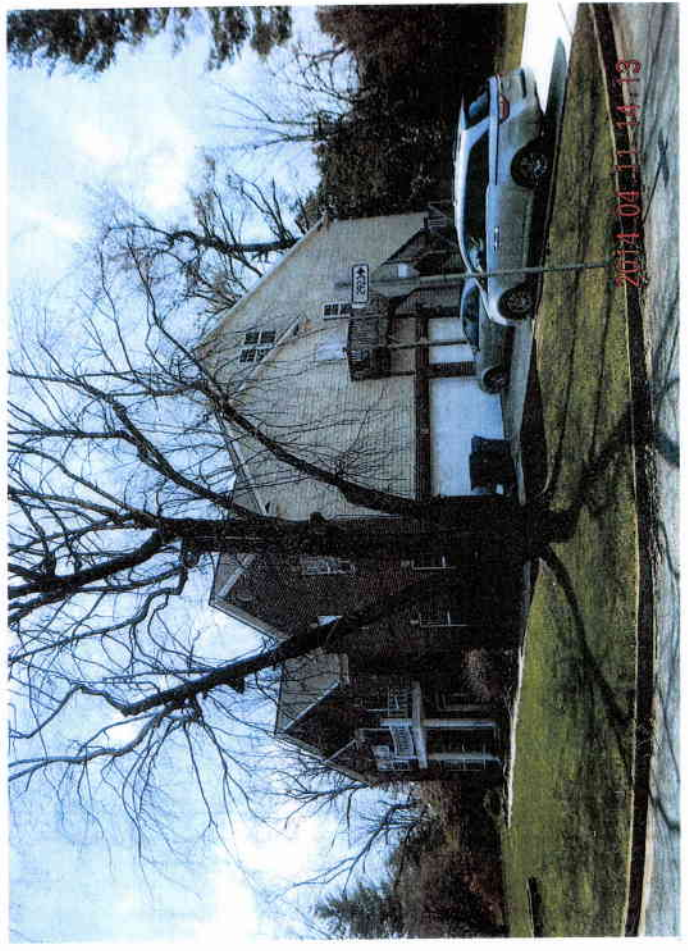
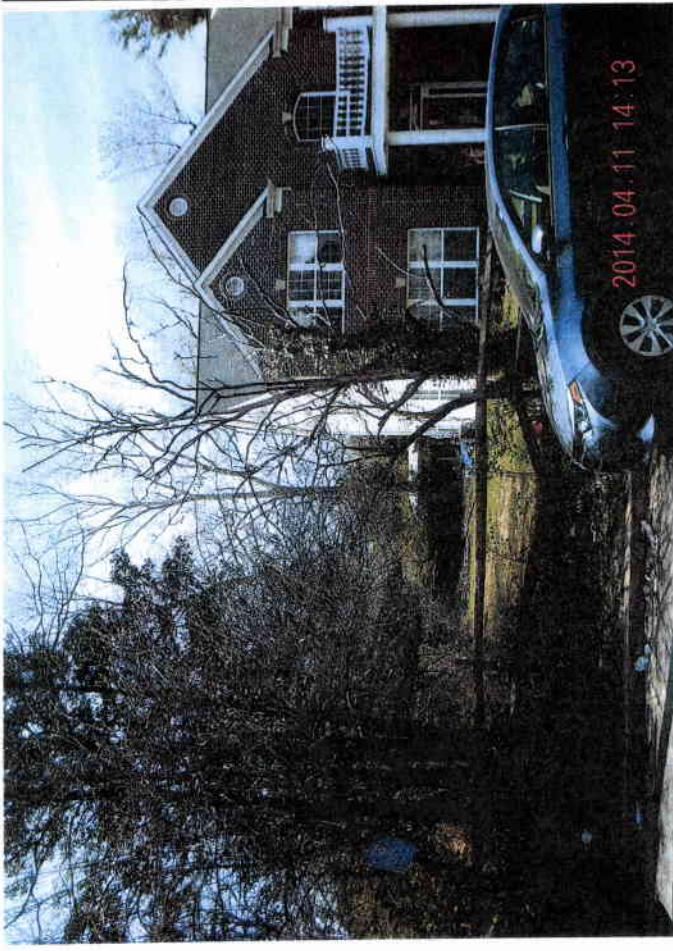
Fairfax, VA 22030

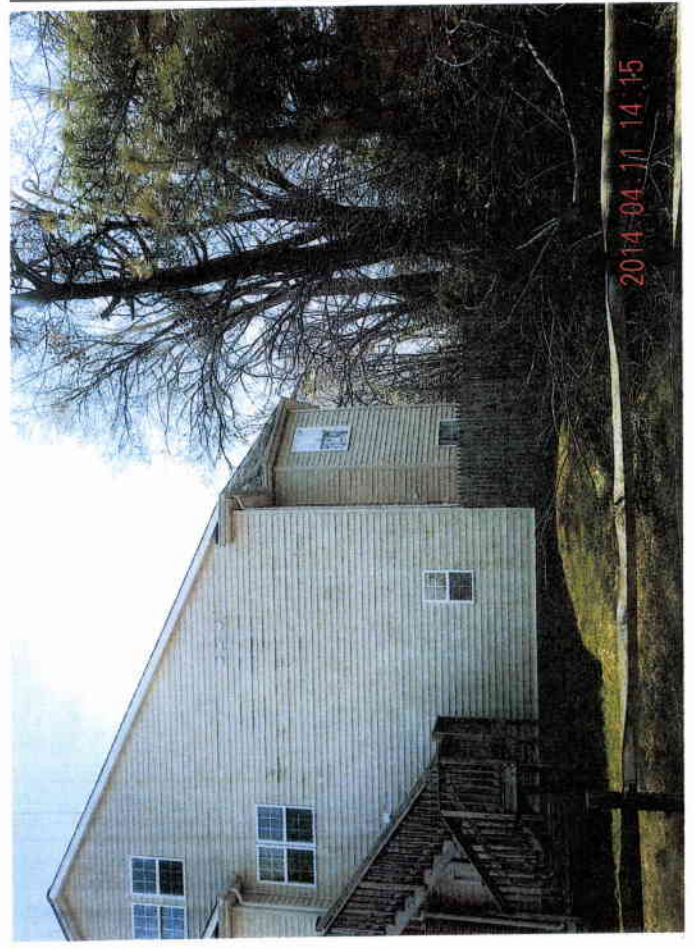
Phone: 703.591.7170

Fax: 703.591.7074





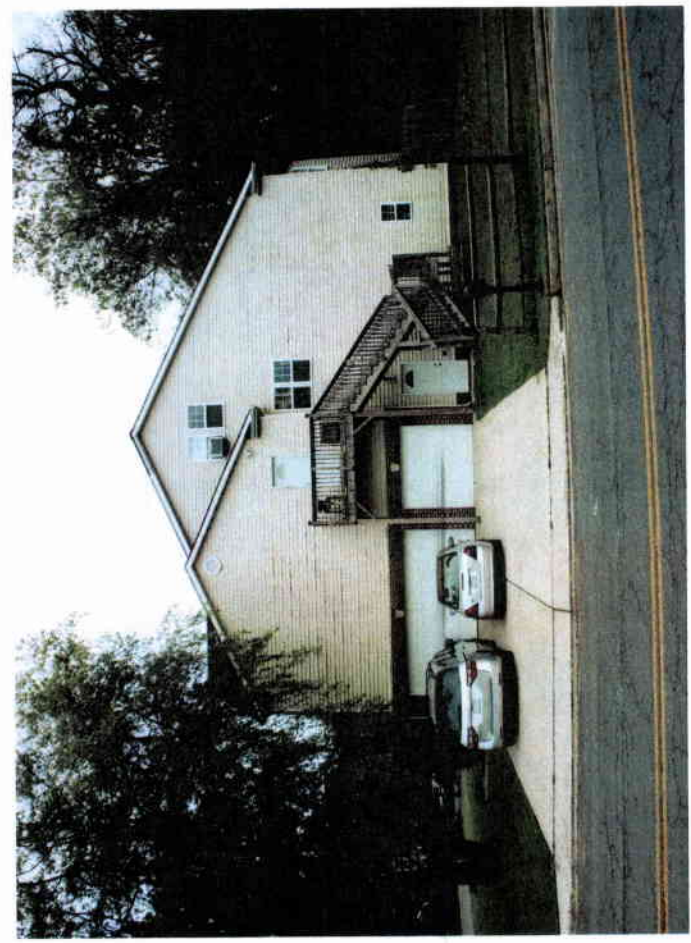
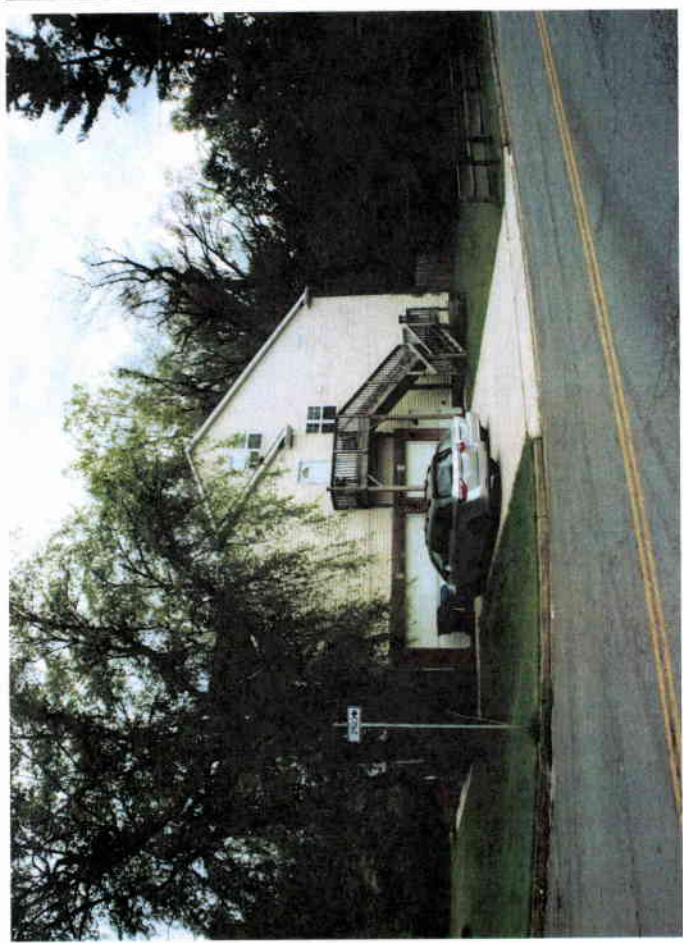


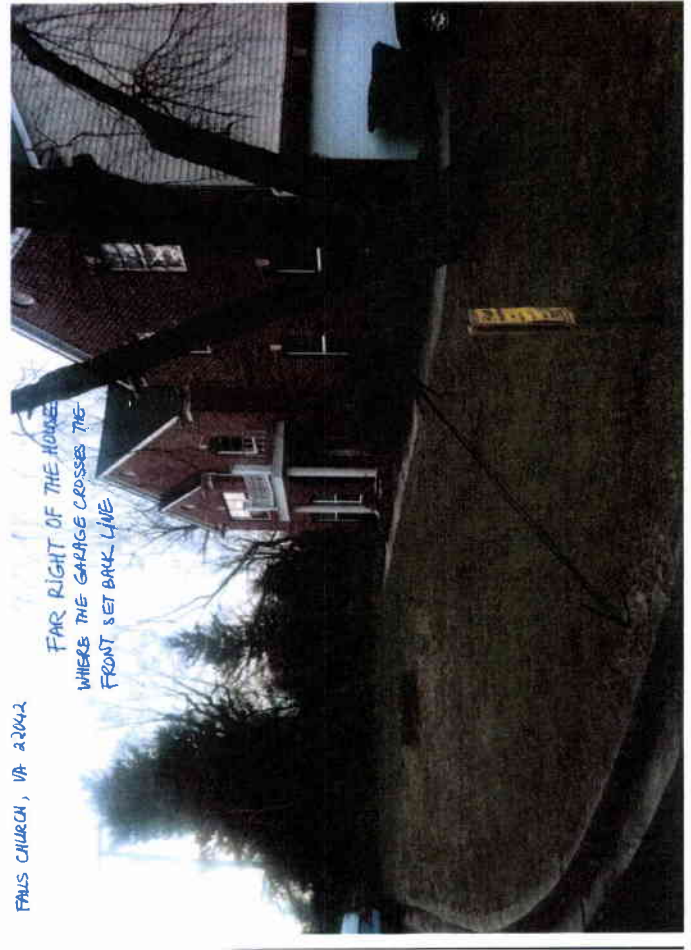
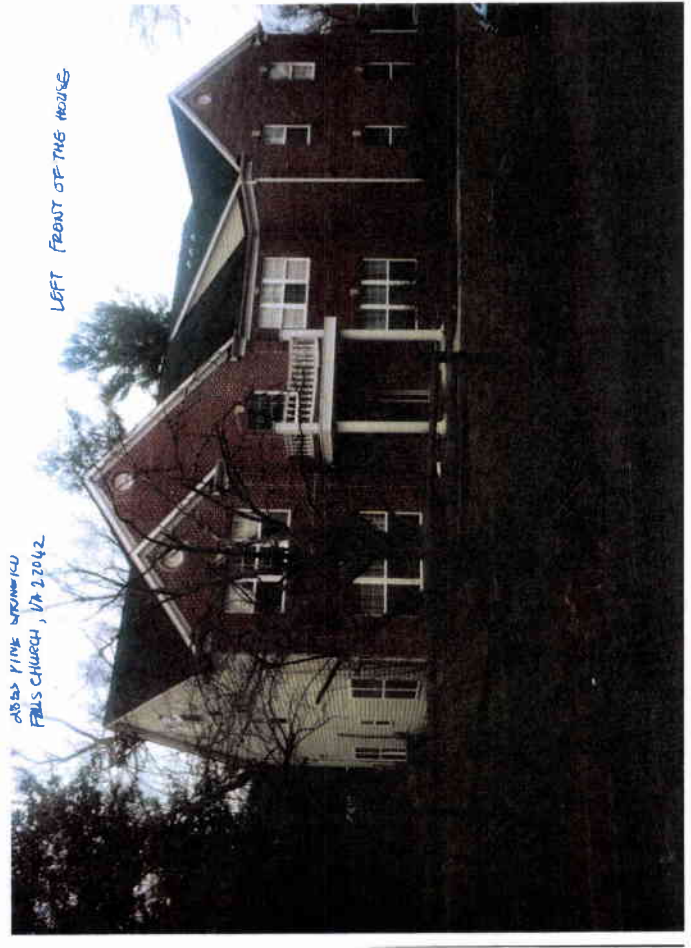


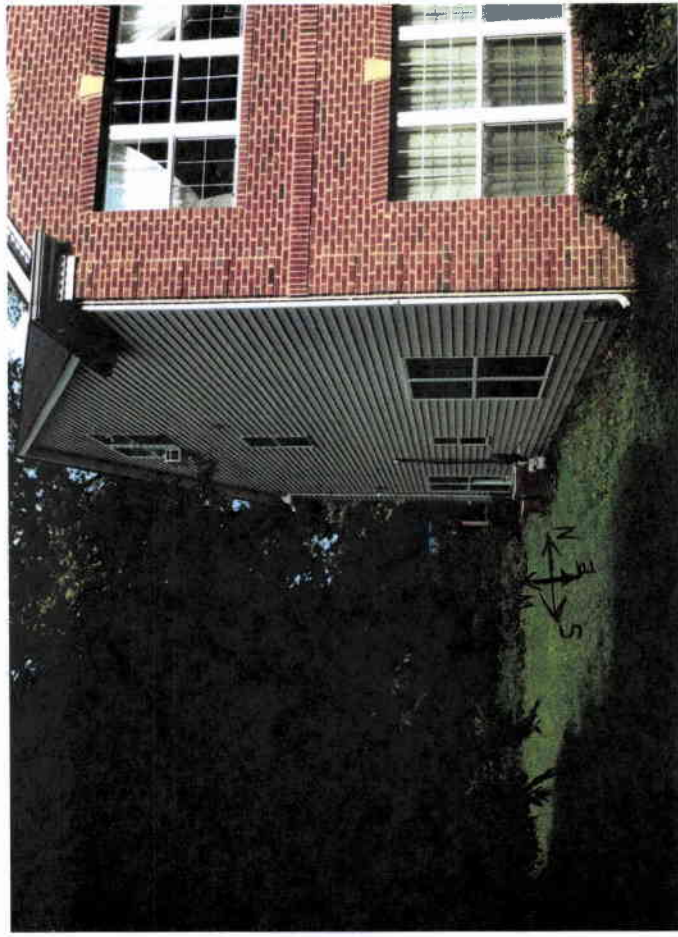


FRONT OF THE PROPERTY

FAUS CHURCH, VI 22042







SPECIAL PERMIT REQUEST

The applicant is seeking a special permit to allow a reduction in minimum yard requirements based on error in building location to permit additions to remain 24.6 ft. and 23.8 ft. from one front lot line, an addition to remain 22.0 ft. from other front lot line, a deck to remain 0.1 ft. from side lot line, and a fence greater than 4 ft. in height to remain in the front yard of a corner lot.

A copy of the special permit plat titled "Special Permit Plat, Lot 10, Block 6, Section 5, 2855 Pine Spring," prepared by Ibrahim A. Chehab, P.E., of GeoEnv Engineers, dated June 12, 2013, as revised through June 6, 2014, is included in the front of the staff report.

A more detailed description of the proposal is provided on pages two and three.

CHARACTER OF THE SITE AND SURROUNDING AREA

The 13,640 square foot lot is developed with a two story brick and vinyl single family detached dwelling. The dwelling is located on a corner lot on Meadow View Road and Pine Spring Road, and vehicular access to the site is provided via a concrete driveway fronting Pine Spring Road. Two concrete walkways connect the driveway to two different entrance points: the first is on the functional front of the home, where a covered patio serves as the main access point to the dwelling; the second walkway connects to a wooden staircase, which accesses a second-story entrance to the dwelling. The functional rear yard (technical side yard) is covered by a wooden deck. The average deck height has been calculated to be 0.97 feet above grade. There are no storage or accessory structures located on the property, and there is a wooden fence with a maximum height of 6.43 feet located in the side yards and one front yard.

The subject property and many surrounding properties are zoned R-4 and developed with single family detached dwellings. To the north, the properties are zoned R-20 and developed with multifamily attached dwellings, and the properties to the east are zoned C-3 and developed as commercial uses.

	Zoning	Use
North	R-20, HC	Multifamily Attached Dwellings
East	C-3, HC	Commercial Uses
South	R-4, HC	Single Family Detached Dwelling
West	R-4, HC	Single Family Detached Dwelling



Figure 1. Lot location

BACKGROUND

Fairfax County Tax Records indicated that the applicant purchased the property in 2004. A building permit was approved on October 10, 2004 for the construction of a single family detached dwelling, and it was constructed in 2006. The building permit is included as appendix 4.

Since the adoption of the Zoning Ordinance, variance applications have been heard by the Board of Zoning Appeals for nearby properties as shown in Appendix 5.

The applicant was issued a Notice of Violation on September 7, 2011 for violations of the bulk regulations and building permit sections of the Zoning Ordinance. The Notice of Violation is included as Appendix 6.

DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for the reduction to minimum yard requirements based on errors in building locations to permit additions to remain 24.6 ft. (covered patio) and 23.8 ft. (garage) from a front lot line, an addition (wooden staircase) to remain 22.0 ft. from the other front lot line, a deck to remain 0.1 ft. from a side lot line, and a fence greater than 4 ft. in height to remain in the front yard of a corner lot. The covered patio addition is approximately 90 square feet, and the garage addition is approximately 353 square feet. The wooden staircase is 12 feet tall and approximately 35 square feet. The wooden deck is approximately 1,900 square feet and covers a majority of the side yard, but it is on average 0.97 feet above grade. The wooden fence located in a front yard (the functional side yard) is approximately 6.2 feet tall. The R-4 zoning district requires a front yard of 30 feet and a side yard of 10 feet. Therefore the applicant is asking for reductions of 5.4 feet, 6.2 feet, 8 feet, and 9.9 feet. The applicant is requesting reductions of 18%, 21%, 27%, and 99% (see chart below).

	Structure	Yard	Minimum Yard Required	Proposed Location	Proposed Reduction	Percentage of Reduction Requested
Special Permit	Covered Patio	Front	30.0 feet	24.6 feet	5.4 feet	18%
Special Permit	Garage	Front	30.0 feet	23.8 feet	6.2 feet	21%
Special Permit	Wooden Staircase	Front	30.0 feet	22.0 feet	8.0 feet	27%
Special Permit	Deck	Side	10.0 feet	0.1 feet	9.9 feet	99%
Special Permit	Fence	Front	n/a	6.2 ft. in height	n/a	n/a

According to the applicant, these errors were done in good faith and at no fault of the applicant. The covered patio is the porch entryway to the home with a decorative railing located on the roof of the entrance. The attached garage was built and approved in the original plan, but the applicant states that there was a marking error for the foundation slab. The garage was inspected and passed as-built plan review in 2004, and this error was not brought to the applicant's attention until this special permit for the existing deck was filed.

With respect to the deck, the applicant states that he was under the impression that the existing wooden deck could be classified as an at-grade patio, as the deck is supported by grade-level wooden beams. The wooden staircase was constructed in order to provide an alternative access point to the second level of the home that will allow the applicant and his roommate to enter and exit the home without disturbing the applicant's mother, who resides in a room located on the first floor near the original entryway of the home.

The Zoning Ordinance allows a fence up to four feet in height in a front yard by-right; however, with approval of a special permit, an applicant can request a fence up to six feet in height. As the fence exceeds six feet in height, a proposed development condition has been included requiring the fence height to be reduced (see Appendix 1). These structures are further detailed and documented on the plat located in the front of this staff report.

ANALYSIS

Comprehensive Plan Provisions

Plan Area: Area I, Jefferson Planning District
Planning Sector: Pine Spring Community Planning Sector (J7)
Plan Map: Residential uses at 4 dwelling units/acre (du/ac)

Zoning Ordinance Requirements

- *Sect. 8-006* General Special Permit Standards
- *Sect. 8-903* Group 9 Standards
- *Sect. 8-914* Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location
- Provisions for Increase in Fence and/or Wall Height in Any Front Yard (Sect. 8-923)

This special permit is subject to sections of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 7. Subject to development conditions, the special permit must meet these standards.

Sect. 8-923 Standards	Provision met?	
	YES	NO
1. The maximum fence and/or wall height shall not exceed six (6) feet.	X*	
2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.	X	
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.	X	
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.	X	
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.	X	
6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.	X	
7. Submission requirements met	X	
8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.	X	

*Provision will be met with the adoption of the proposed development conditions, which requires the applicant to lower the fence height to be below six feet in height.

CONCLUSION

Staff believes that the request is in conformance with the applicable Zoning Ordinance provisions with the implementation of the proposed Development Conditions contained in Appendix 1 of the staff report.

RECOMMENDATIONS

Staff recommends approval of SP 2014-PR-126 for a fence greater than 4 feet in a front yard, with adoption of the Proposed Development Conditions contained in Appendices 1 of the staff report.

If it is the intent of the BZA to approve this application, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Building Permit
5. Similar Case History
6. Notice of Violation, dated September 7, 2014
7. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2014-PR-126****September 17, 2014**

If it is the intent of the Board of Zoning Appeals to approve SP 2014-DR-137 located at Tax Map 40-2 ((4)) (3) 05 to permit a fence greater than 4.0 feet in height to be constructed in a front yard of a corner lot, under Sect(s). 8-923 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This special permit is approved for the location of the additions, deck, and fence as shown on the plat titled "Special Permit Plat, Lot 10, Block 6, Section 5, 2855 Pine Spring," prepared by Ibrahim A. Chehab, P.E. of GeoEnv Engineers, dated June 12, 2013, as revised through June 6, 2014.
2. All applicable permits and final inspections shall be obtained within 180 days of the approval of this application.
3. Within 180 days of the special permit approval, the height of the wood frame fence and fence posts located in the front yard shall be reduced to a maximum height of 6.0 feet.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Application No.(s): _____
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 1/8/13
 (enter date affidavit is notarized)

I, Duc Dang, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) ☒ applicant
☐ applicant's authorized agent listed in Par. 1(a) below

119621

and that, to the best of my knowledge and belief, the following is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS**, and **LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Duc, N, Dang	2855 Pine Spring Rd, Falls Church VA 22042	APPLICANT/TITLE OWNER SELF DND 02/27/13

(check if applicable) ☐ There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): _____

(county-assigned application number(s), to be entered by County Staff)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: _____

(enter date affidavit is notarized)

119621

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
- ☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- ☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____

(county-assigned application number(s), to be entered by County Staff)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 1/8/13
(enter date affidavit is notarized)

119621

- 1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) ☐ The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner**, **Limited Partner**, or **General and Limited Partner**)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____

(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 1/8/13
(enter date affidavit is notarized)

119621

1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (**NOTE:** If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

SPECIAL PERMIT/VARIANCE AFFIDAVITDATE: 1/8/13
(enter date affidavit is notarized)

119621

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE

+ DNP
02/27/13

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.


WITNESS the following signature:

(check one)

☒ Applicant☐ Applicant's Authorized Agent

DUC DANG
(type or print first name, middle initial, last name, and title of signer)

Subscribed and sworn to before me this 8th day of January 2013, in the State/Comm. of Maryland
County/City of Calvert


* Notary Public

My commission expires: 7/21/15

Duc Dang
2855 Pine Spring Rd
Falls Church, VA 22042

Zoning Evaluation Division
Fairfax County
Department of Planning and Zoning
12055 Government Center Parkway
Fairfax, VA 22035

Re:
Special Permit Statement of Justification for property at 2855 Pine Spring Rd, Falls Church VA 22042

To Whom It May Concern:

This is to request a special permit to retain my building at its current location from the address listed above.

Due to an unintentional mistake, a portion of my garage was built and currently located crossing the set back line by and about 5 feet 5. The foundation and the slab inspection were passed by county inspector in 02/08/2005. I was not aware of the mistake until the county official mentioned to me recently.

There is a bedroom sit on top of the garage, I cannot think of a solution to remedy this mistake without a major demolition this part of the structure which will cause half of property to collapse.

I have been keeping my property in prestige condition with Fairfax county applicable ordinances, regulation and contribute to the growth of the county for years and years to come.

I sincerely ask you to grant me a special permit to have the structure remain as it is since

- There is no traffic impact of the request.
- There is no hazardous as set forth in Title 40, Code of Federal Regulations Parts 116.4, 302.4 and 355.

Sincerely,



Duc N. Dang

RECEIVED
Department of Planning & Zoning

JAN 10 2013

Zoning Evaluation Division

Additional Submission Requirement

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Department of Planning & Zoning
JUL 15 2013
Zoning Evaluation Division

Item 911.02: Total Area of the property and of each zoning district in SF or Acres.

The Total Area of the property is 7,163 SF in R4 zoning, and the lot is 13,640 SF or 0.31 Acres.

Item 911.04: Location of all existing structures with dimensions, including height of any structure and penthouse and if known, the construction dates of all existing structures.

The property includes:

A single family colonial home with the approximate dimension of 70x49 and approximate height of 30 foot high from ground of the drive way up to the highest point of the roof.

A balcony deck of 3x10 with a wooden staircase of 3 foot wide with 15 steps and an approximate height of 15'.

A wooden patio on the back yard

An approximate 6 Foot wooden fence on the back.

Item 911.05: All required minimum yards to include front, side and rear. And a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.

Required Minimum yards for the property of Zone R-4: Front: 30ft, Side (Left): 10ft, Rear: 10ft.

Item 911.06: Means of Ingress & Egress to the property from public street

Ingress and Egress to the property from the driveway located on Pine Spring Road.

Item 911.08: Location of well and septic field if applicable.

Not applicable. There is no either well or septic field on the property.

Item 911.10: There is NO KNOWN utility easements having a width of 25 feet or more, and NO major underground utility easements regardless of width. (Please see indication in Special Permit Plat attached)

Item 911.11: Please see signature/date in the Special Permit Plat.

cause a total restructure of the property. This would lead to serious financial impact and unsafe living condition to its residents. It would definitely cause immense hardship upon the home owner.

- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

Regards,

A handwritten signature in black ink, appearing to read 'Duc N. Dang', with a long horizontal flourish extending to the right.

Duc N. Dang
301-437-5420

Duc Dang
2855 Pine Spring Rd
Falls Church, VA 22042

Attn: Virginia Ruffner
Application Acceptance Section, ZED, DPZ
Zoning Evaluation Division
County of Fairfax, Virginia

RECEIVED
Department of Planning & Zoning
JUL 15 2013
Zoning Evaluation Division

Re: Check list report – Item 5.0

Written statement describing the proposed use, giving all pertinent data, including specifically:
provide statements addressing 8-914 standards, paragraph 2, items A-G:

To Whom It May Concern:

This statement is to describe the proposed use with supported statements addressing 80914 standards, paragraph 2, items A-G as requested.

According to the setback guidelines of a corner lot of a R4 zone, I understand that the side portion of my garage is located at 24'41" instead of 30 foot setback line (see the plat survey) which caused a 5'59" reduction of the minimum yard requirement. This would cause:

- A. The error is $5'59/30 \times 100\% = 18.6\%$ which is exceed 10% of the measurement of 30 foot setback involved.
- B. When the foundation slap for the garage was done, I was certain that it was on the right location. I had the slap inspection done and was passed on 02/08/2005 and 02/16/2005. I honestly did not know the perimeter of the foundation was off the requirement by over 5 feet. If I knew than I would correct it properly because I have enough room in the lot to correct the issue (up to 26 feet on the left and the minimum requirement for the side set back is 10 feet, please see the plat).
- C. I believe the current reduction does not impair the purpose and intent of the Ordinance 8-914.
- D. Since the setback reduction cannot be seen with regular eye view without proper measuring equipment, I strongly believe it does not detrimental to the use and enjoyment of other property in the immediate vicinity, and
- E. It will not create an unsafe condition with respect to both other property and public street, and
- F. Since the attached garage under a bedroom on the second floor, it is part of the major structure of the house, to force compliance with the minimum yard requirements may

SP 2013-0012
Addition Submission Requirement

Item 5.0

A written Statement describing the proposed use, giving all pertinent data for the deck.

The deck is built for the necessity usage of the house. Since my mother is at the age of 67, lives in the bedroom on the first floor. Any entries from the first floor in the evening would wake her up and worry her. My roommate, Joseph is a young and very responsible professional. Because of the flexible working schedule at his company, he allows to go to work late and come home at very late time. Having this deck as secondary entrance for him without disrupting to my mother on the first floor, it is a viable solution. Since the deck was built, my mom slept better and Joseph can go home at any time he please without bothering anyone in the household. However, I realized that the deck will need special permit to allow a reduction to the minimum yard requirements.

According to 8-914 standards, paragraph 2, Items A-G for the deck are included in the plat survey attached. Please let me know if you need additional information.

Item 911.04

Location of all Existing structures with dimension, including height of any structures (Wood deck)

Deck Location: North side, next to the driveway, on Pine Spring Rd.

Deck Dimension: 3.5' wide, 8 feet long and 12 feet height with stairway of 18 steps of 3 feet wide.

Item 911.11

Seal and Signature of Professional Engineer, Ibrahim A. Chehab (from GeoEnv. Engineers) are update.

Item 912.0

Statement of Justification for Deck:

This deck is built as secondary entrance to the 2nd floor which give my mother peace and quiet (no disruption) when my roommates get home late at night or weekend. When I have it built, I thought it was right on the setback perimeter. Because I did not know the outer 3 feet belongs to the county and those 3 feet are not part of the perimeter. When I applied for the permit, I realized the deck location ends up in error. Since the outer wall of the house is right on the setback line, I had no other choice but apply for the permit.

Seal and Signature of Professional Engineer, Ibrahim A. Chehab (from GeoEnv. Engineers) are update.

Item 912.0

Statement of Justification:

1. The wood deck and wood staircase located 22.0 feet from the front lot line facing Pine Spring Rd.

This deck is built as secondary entrance to the 2nd floor which give my mother peace and quiet (no disruption) when my roommates get home late at night or weekend. When I have it built, I thought it was right on the setback perimeter. Because I did not know the outer 3 feet belongs to the county and those 3 feet are not part of the perimeter. When I applied for the permit, I realized the deck location ends up in error. Since the outer wall of the house is right on the setback line, I had no other choice but apply for the permit.

2. The "wood deck" along the side lot line (alongside Lot 9)

The "wood deck" is a wood patio, it is covered with wood deck lumber. It is about 6.75 inches above the ground because of the 6 inch beams support underneath the patio, it covers the lawn space from the house to the fence alongside Lot 9. Since it is on the ground, I didn't think I would need a permit for it.

The proposed use is to avoid cutting the lawn and to eliminate nags, bugs and insects attacks in the summer from that area.

3. The "covered patio" addition located 24.6 feet from the front lot line facing Meadow View Road.

The covered patio is the decorative front porch which is common feature for most colonial houses in Fairfax, it is open on 3 sides. I didn't think I would need a permit for the front porch.

4. The "garage" section located 23.8 feet from the front lot line on Meadow View Road.

The property was built with the attached garage as it was in the original approved plan. The mistake was made due to the marking error for the foundation slab. However, it was inspected and passed in 2004, I was not aware of this until when I applied for the deck in 2012 and found out the error. Have I known it before it happened I would correct immediately because I have enough space on both side along Meadow View Rd and Pine Spring Rd of the property. At this time, there is no other option for me to remedy this but applying for special permit.

1. The wood deck and wood staircase located 22.0 feet from the front lot line facing Pine Spring Rd.
2. The "covered patio" addition located 24.6 feet from the front lot line facing Meadow View Road
3. The "garage" section located 23.8 feet from the front lot line on Meadow View Road.

3. The reduction or modification of the following items will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

1. The wood deck and wood staircase located 22.0 feet from the front lot line facing Pine Spring Rd.
2. The "wood deck" along the side lot line (alongside Lot 9)
3. The "covered patio" addition located 24.6 feet from the front lot line facing Meadow View Road
4. The "garage" section located 23.8 feet from the front lot line on Meadow View Road.

Item 911.04

Location of all Existing structures with dimension, including height of any structures:

1. The wood deck and wood staircase located 22.0 feet from the front lot line facing Pine Spring Rd.

Deck Location: North side, next to the driveway, on Pine Spring Rd.

Deck Dimension: 3.5' wide, 10 feet long and 12 feet height.

Deck stairway of 19 steps of 3 feet wide with 2 landings of 3ft by 3ft.

2. The "wood patio" along the side lot line (alongside Lot 9)

Wood Patio location: along the side lot line of Lot 9, on the rear of the property.

Wood Patio Dimension: because the various width of the property, the wood patio covered area is estimated about 1900SF, covered by wood deck with 2x6inch support underneath, It's on the ground.

3. The "covered patio" addition or the "Front Porch" located 24.6 feet from the front lot line facing Meadow View Road

Front Porch Location: 24.6ft. from the front lot facing Meadow View Rd

Front Porch Dimension: 12ft. wide, 6ft. depth and 10ft. height.

4. The "garage" section:

Garage Location: 23.8 feet from the front lot line on Meadow View Road.

Garage Dimension: 30ft. wide, 22.8ft. depth.

Item 911.11

Not Applicable.

C. The non-compliance was done in good faith and no fault of the property owner.

1. The wood deck and wood staircase located 22.0 feet from the front lot line facing Pine Spring Rd.

Because of the wellbeing of my mother who lives with us, we have to build the deck this way. Please consider the variance on the property.

2. The "garage" section located 23.8 feet from the front lot line on Meadow View Road.

It was done in good faith, I was truly not aware of it.

D. The following reduction or modification of the following items will not impair the purpose and intent of this Ordinance,

1. The wood deck and wood staircase located 22.0 feet from the front lot line facing Pine Spring Rd.
2. The "wood deck" along the side lot line (alongside Lot 9)
3. The "covered patio" addition located 24.6 feet from the front lot line facing Meadow View Road
4. The "garage" section located 23.8 feet from the front lot line on Meadow View Road.

E. All the structure of the following items below will not be detrimental to the use and enjoyment of other property in the immediate vicinity

1. The wood deck and wood staircase located 22.0 feet from the front lot line facing Pine Spring Rd.
2. The "wood deck" along the side lot line (alongside Lot 9)
3. The "covered patio" addition located 24.6 feet from the front lot line facing Meadow View Road
4. The "garage" section located 23.8 feet from the front lot line on Meadow View Road.

1. All the structure of the following items will not create an unsafe condition with respect to both other property and public streets,

1. The wood deck and wood staircase located 22.0 feet from the front lot line facing Pine Spring Rd.
2. The "wood deck" along the side lot line (alongside Lot 9)
3. The "covered patio" addition located 24.6 feet from the front lot line facing Meadow View Road
4. The "garage" section located 23.8 feet from the front lot line on Meadow View Road.

2. To force compliance of the following items with the minimum yard requirements would cause unreasonable hardship upon the owner.

4. The "garage" section located 23.8 feet from the front lot line on Meadow View Road.

The property was built with the attached garage as it was in the original approved plan. The mistake was made due to the marking error for the foundation slap. However, it was inspected and passed in 2004, I was not aware of this until when I applied for the deck in 2012 and found out the error. Have I known it before it happened I would correct immediately because I have enough space on both side along Meadow View Rd and Pine Spring Rd of the property. At this time, there is no other option for me to remedy this but applying for special permit.

According to 8-914 standards, paragraph 2, Items A-G for the deck are included in the plat survey attached.

A. The error exceeds 10% of the measurement.

1. The wood deck and wood staircase located 22.0 feet from the front lot line facing Pine Spring Rd.

For the corner lot, there are 2 front lot lines, the setback is 30 ft. Hence, the error of 30ft. - 22ft. = 8ft for the staircase is 25%, exceeds 10% of the measurement.

2. The "wood deck" along the side lot line (alongside Lot 9).

Since it is really a patio cover by wood deck lumber, it looks like a deck, but it's on the ground. I am not sure if this patio is applicable to the regulation of building a deck. If it is applicable, I will apply for a permit and comply accordingly. Please advise.

3. The "covered patio" addition located 24.6 feet from the front lot line facing Meadow View Road.

The "covered patio", in fact, is the front porch of the property with decorative hand rails and balusters on top. It is open from 3 sides. It is a decorative feature for most colonial homes in Fairfax. Again, I am not certain if a permit should be applied, please advise.

4. The "garage" section located 23.8 feet from the front lot line on Meadow View Road.

The garage was not an addition, it was built as it was in the original approved plan. The error of 30ft. - 23.8ft. = 6.2ft. is about 20%, exceeds 10% of the measurement.

- B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved,**

Duc Dang
2855 Pine Spring Rd
Falls Church, VA 22042

Deborah Lesko Pemberton
Senior Applications Acceptance Planner
Special Projects/Application Management Branch, ZED
Fairfax County Department of Planning and Zoning

12055 Government Center Parkway Suite 801
Fairfax, VA 22035-5509

Re: SP 2013-0012
Addition Submission Requirement

Dear Ms. Pemberton,

Attached is the revised application materials per your request. Please let me if there is additional information needed.

Thank you very much.

Regards,

Duc Dang
ducndang@yahoo.com
301-437-5420

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Department of Planning & Zoning

JUN 23 2014

Zoning Evaluation Division

SP 2013-0012
Addition Submission Requirement

ITEM 5.0

A written Statement describing the proposed use, giving all pertinent data for the deck.

1. The wood deck and wood staircase located 22.0 feet from the front lot line facing Pine Spring Rd.

The deck and the stair case are built for the necessity usage of the house. Since my mother is at the age of 67, lives in the bedroom on the first floor. Any entries from the first floor in the evening would wake her up and worry her. My roommate, Joseph is a young and very responsible professional. Because of the flexible working schedule at his company, he allows to go to work late and come home at very late time. Having this deck as secondary entrance for him without disrupting to my mother on the first floor, it is a viable solution. Since the deck was built, my mom has slept better and Joseph can go home at any time he please without bothering anyone in the household. However, I realized that the deck will need special permit to allow a reduction to the minimum yard requirements.

The deck size is 3.5ft. wide, 10ft. long, 12ft. height with the stair case of 19 steps, each step is 3ft. wide, with 2 landings of 3ft. by 3ft to ensure safely.

2. The "wood deck" along the side lot line (alongside Lot 9).

The "wood deck", in fact, is a wood patio. It is about 6.75 inches above the ground because of the 6 inch beams support underneath the patio, it covers the lawn space from the house to the fence alongside Lot 9. The proposed use is to avoid cutting the lawn and to eliminate nags, bugs and insects attacks in the summer from that area.

The wood patio is approximate about 1,900 SF.

3. The "covered patio" addition located 24.6 feet from the front lot line facing Meadow View Road.

The "covered patio", in fact, is the front porch of the property with decorative hand rails and balusters on top. It is built as decorative feature of most colonial homes in Fairfax.

The front porch is about 6ft. wide, 15ft. long, which is about 60SF.

Item 912.00 Statement of Justification Explaining how the error in building locations occurred and any supportive material such as aerial photographs, building permit application, county assessment records, copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

- A. When the foundation slap for the garage was poured and completed in Feb 2005, I was certain that it was on the right location. I have asked GeoEnv Engineers to mark the starting point on the left. The mistake is however, on the right side of the house. I had the slap inspections done with failed status 02/03, 02/10 and 02/16 (inspection#: 2464139, 2464134 and 24641440) and passed status on 02/08 and 02/16 (inspection#: 2464145 and 2876228) Please see attachment.
- B. I honestly did not know the perimeter of the foundation was off the requirement by over 5 feet. If I knew then I would correct it properly because I have enough room in the lot to correct the issue (up to 26 feet on the left and the minimum requirement for the side set back is 10 feet, please see the plat).

**Land Development Information History: ISIS - Building Permit - 04301B0680****Permit Information**

Permit Id:	04301B0680	Application Date:	2004-10-27	Time:	14:15:32
Job Address:	002855 PINE SPRING RD	Tax Map:	050-3 ((19)) (06) 0010		
Subdivision:	PINE SPRINGS	Permit Status:	Initial/Approved (IA)		
Trade Name:	INE SPRINGS	Subobj:	181 R/C: R		
Applicant Name:	VINH DANG	Bldg:	NA	Floor:	NA Suite: NA
Work Description:	SFD//BUILD NEW SFD /PEER REVIEW				
Type Work:	Build New Structure (N01)				
Building Use:	Single-Family, Detached Or Semi-Detached (010)				
Standard:	IR00				
Plan Number:	0000 Use Group: R5 Bldg Permit: NA				
Permit Hold Date:	By: QNO: R-04-01752 POF: R				
Hold Release Date:	By: Proffer: Pre-Const Meeting: Date:				
Comments:	ATTACH & CONTR EXEMPT AFFID @ LOGOUT PEER REVIEW				

Permit Status Summary

Permit Status:	Initial/Approved (IA)	Real Estate:	2004-10-27	RSLT:	APP	BY:	
Applied Date:	2004-10-27						
Issued Date:	2004-12-08	Zoning:	2004-11-22	RSLT:	APP	BY:	
Paid Date:	2004-12-08						
Expiry Date:	2005-06-08	Grading /	2004-11-22	RSLT:	APP	BY:	
		Drainage:					
		Public Works:	2004-12-02	RSLT:	APP	BY:	
		Building Plan	2004-12-08	RSLT:	APP	BY:	
		Review:					
		Final Inspection:	2006-03-10	RSLT:	C	BY:	
		Final Inspection:	2006-03-15	RSLT:	C	BY:	

Owner Information

Leasee:		Corp:	
Owner:	DANG DUC	Job Magisterial	Providence
Address:	02900 MEADOW VIEW RD	Dist:	
City:	FALLS CHURCH State: VA	Planning Dist:	Jefferson
	Zip: 22042	Subcensus	501.02
Phone:		Tract:	

Contractor Information

Name:	OWNER	Master:	
Address:	00000	BPOL Lichese:	0
City:	State: Zip: 0	State License:	0
Phone:		Trade Reg.:	0

Building Permit**Building Plan Review**

Estimated Cost: 300000 Sewer Water: 1
 Use Group: (01) R5 Code:
 Type Const: (01) Combustible/Unprotected Sewer Shed: N1
 (5B)
 Model Group:
 Plan Received: 2004-10-27 Review Time: 00:00:00
 Review Started: 2004-10-27 Results: APP
 Review: 2004-12-08 Engineer: BFF
 Completed:
 Comments:

Totals Fee Area

Type of Construction	Fee	Fee Rate
Combustible/Unprotected (5B)	13142	0.054

Total	13142
Filing Fee	354.83
Total Fee	709.66
Amount paid	709.66

Real Estate Review

Building Basement: OT
 Units: 1 Ext Walls: BL
 Kitchens: 1001 Int Walls: DW
 Baths: 4004 Roofing: AS
 Half Baths: 1001 Flooring: CP
 Bedrooms: 4004 Base Fin: OT
 Rooms: 14014 Fuel/Heat: GG
 Stories: 02 Fuel System: HA
 Building Height: 28 Fireplace: 1
 Building Area: 13142

Owner of Record: HODGES POLLY E

Review Data

Date To: 2004-10-27
 Date From: 2004-10-27
 Results: APP
 Reviewer: CBS
 Comments:

Zoning Review**Review Data**

Date To: 2004-11-22
 Date From: 2004-11-22
 Results: APP
 Reviewer: TEM
 Comments:

Grading / Drainage Review**Review Data**

Date To: 2004-11-22
 Date From: 2004-11-22

Results: APP
 Reviewer: MF
 Comments:

Public Works Review**Review Data**

Date To: 2004-12-02
 Date From: 2004-12-02
 Results: APP
 Reviewer: RAS
 Comments:

Inspections**Inspection - RTNB - 999998**

Req Taken: 2005-02-02 Phone:
 Time: 08:58:26 Floor: NA
 Sched For: 2005-02-03 Suite/Area: NA
 Assigned To: A43 Comments: FOOTING
 Branch: 4 Req Taken By: MB
 Requested By: CARLOS Ovr: 4
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
RTNB		2005-02-03	JAM		R						00:00:00	00:00:00	00:00:00	1

Inspection - FTGH - 999997

Req Taken: 2005-02-09 Phone:
 Time: 17:30:52 Floor: NA
 Sched For: 2005-02-10 Suite/Area: NA
 Assigned To: A43 Comments:
 Branch: 4 Req Taken By: WB1
 Requested By: VINH DANG Ovr: 4
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
FTGH		2005-02-10	RMB	C	R	N					00:00:00	00:00:00	00:00:00	1

Inspection - RTNB - 999996

Req Taken: Phone:
 Time: Floor: NA
 Sched For: Suite/Area: NA
 Assigned To: Comments:
 Branch: Req Taken By:
 Requested By: Ovr:
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
RTNB		2005-02-11	JAM		C						00:00:00	00:00:00	00:00:00	0

Inspection - SLBS - 999995

Req Taken: 2005-02-15 Phone:
 Time: 15:31:46 Floor: NA
 Sched For: 2005-02-16 Suite/Area: NA
 Assigned To: A43 Comments: SLAB, FOUNDATION
 Branch: 4 Req Taken By: WB1
 Requested By: VINH DANG Ovr: 4
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
SLBS		2005-02-16	JAM	C	R	N					00:00:00	00:00:00	00:00:00	1

Inspection - FRM - 999994

Req Taken: 2005-05-18 Phone:
 Time: 14:56:22 Floor: NA
 Sched For: 2005-05-20 Suite/Area: NA
 Assigned To: A43 Comments:
 Branch: 4 Req Taken By: SA
 Requested By: DUC Ovr:
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
FRM		2005-05-23	JAM		C	N		N			00:00:00	00:00:00	00:00:00	0

Inspection - FRM - 999993

Req Taken: 2005-05-23 Phone:
 Time: 13:59:08 Floor: NA
 Sched For: 2005-05-24 Suite/Area: NA
 Assigned To: A43 Comments:
 Branch: 4 Req Taken By: NWM
 Requested By: DUC DANG Ovr:
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
FRM		2005-05-24	JAM	C	R	N					00:00:00	00:00:00	00:00:00	1

Inspection - FRM - 999992

Req Taken: 2005-05-27 Phone:
 Time: 14:20:59 Floor: NA
 Sched For: 2005-05-31 Suite/Area: NA
 Assigned To: A43 Comments:
 Branch: 4 Req Taken By: CAS
 Requested By: DANE Ovr:
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
FRM		2005-05-31	JAM	C	A	N					00:00:00	00:00:00	00:00:00	1

Inspection - RTNB - 999991

Req Taken: 2005-06-06
 Time: 15:32:31
 Sched For: 2005-06-07
 Assigned To: A43
 Branch: 4
 Requested By: DUCK

Phone:
 Floor: NA
 Suite/Area: NA
 Comments:
 Req Taken By: MK
 Ovrdr:
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
RTNB		2005-06-08	JAM		C	N		N			00:00:00	00:00:00	00:00:00	0

Inspection - MCH - 999990

Req Taken: 2005-09-16
 Time: 15:54:37
 Sched For: 2005-09-19
 Assigned To: A43
 Branch: 4
 Requested By: DUC

Phone:
 Floor: NA
 Suite/Area: NA
 Comments:
 Req Taken By: SA
 Ovrdr:
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
MCH		2005-09-19	JAM		C						00:00:00	00:00:00	00:00:00	0

Inspection - RTNB - 999989

Req Taken:
 Time:
 Sched For:
 Assigned To:
 Branch:
 Requested By:

Phone:
 Floor: NA
 Suite/Area: NA
 Comments:
 Req Taken By:
 Ovrdr:
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
RTNB		2005-09-20	JAM		R			N			00:00:00	00:00:00	00:00:00	2

Inspection - MCH - 999988

Req Taken: 2005-09-19
 Time: 15:34:56
 Sched For: 2005-09-20
 Assigned To: A43
 Branch: 4
 Requested By: DUC

Phone:
 Floor: NA
 Suite/Area: NA
 Comments:
 Req Taken By: CAS
 Ovrdr:
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
MCH		2005-09-21	JAM	C	C	N		N			00:00:00	00:00:00	00:00:00	1

Inspection - FINB - 999987

Req Taken: 2006-03-08
 Time: 14:00:21
 Sched For: 2006-03-10
 Assigned To: A43
 Branch: 4
 Requested By: DUCK

Phone:
 Floor: NA
 Suite/Area: NA
 Comments:
 Req Taken By: MK
 Ovrdr:
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
FINB		2006-03-10	TPS		C	N		N			00:00:00	00:00:00	00:00:00	0

Inspection - FINB - 999986

Req Taken: 2006-03-14
 Time: 13:51:32
 Sched For: 2006-03-15
 Assigned To: A43
 Branch: 4
 Requested By: DUC

Phone:
 Floor: NA
 Suite/Area: NA
 Comments:
 Req Taken By: UK
 Ovrdr:
 Rpt Br: 4

Insp Type	Mech Ind	Insp Date	Insp Init	P/C	Result	Re-Fee	Elev Type	Crit Stru	Stru Type	Cert Eng	Visit Arrive	Visit Depart	Insp Time	Units
FINB		2006-03-15	TPS		C	N		N			00:00:00	00:00:00	00:00:00	0

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Similar Case History

ZAPS - VC - VC 98-P-045	Application Desc ...: PERMIT CONSTRUCTION OF CARPORT 21.5 FT. FROM FRONT LOT LINE	APPLICATION APPROVED
ZAPS- VC - VC 93-P-129	Application Desc ...: PERMIT 6 FT. HIGH FENCE TO REMAIN IN THE FRONT YARD (4 FT. MAX. HEIGHT PERMITTED)	APPLICATION APPROVED



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION

DATE OF ISSUANCE: September 7, 2011

SHERIFF'S LETTER

CASE #: 201000954 **SR#:** 71914

SERVE: Duc Dang
2900 Meadow View Road
Falls Church, Virginia 22042

LOCATION OF VIOLATION 2855 Pine Spring Road
Falls Church, Virginia 22042-0000
Tax Map #: 0503 19060010
Zoning District: R-4
Providence District

Dear Property Owner:

An inspection of the above referenced property on May 26, 2011 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-307 Bulk Regulations

§ 18-601 Building Permit

You have erected a single family detached dwelling on the referenced property and an open deck, which floor is higher than 4', in the front yard of your residence. This property is a corner lot and is deemed to have two (2) front yards. Article 20 of the Fairfax County Zoning Ordinance defines a front yard in part as:

A yard extending across the full width of a lot and lying between the front lot line and the principal building.

On a corner lot, the two (2) yards lying between the principal building and the intersecting streets shall both be deemed to be front yards.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

The single family detached dwelling and deck are located approximately 24.4 feet abutting Meadow View Road and approximately 22 feet abutting Pine Spring Road from the front lot lines. The deck, thereby, becomes part of the principal building or dwelling as set forth in Par. 1 of Sect. 10-104 of the Fairfax County Zoning Ordinance, which states:

If an accessory-type building is attached to a principal building by any wall or roof construction, it shall be deemed to be a part of the principal building and shall comply in all respects with the requirements of this Ordinance applicable to a principal building(s), except as qualified in Sect. 2-412.

The referenced property is zoned R-4 District and the bulk regulations for this district include minimum yard requirements for a single family dwelling, which are delineated in Par. 2A (1) of Sect. 3-407 of the Zoning Ordinance, which states:

Minimum yard requirements

A. Single family dwellings

(1) Conventional subdivision lot

- (a) Front yard: 30 feet
- (b) Side yard: 10 feet
- (c) Rear yard: 25 feet

Since the dwelling and deck are only 24.4 feet and 22 feet from the front lot lines, it does not meet the minimum front yard requirement for the R-4 District. Therefore, the dwelling and deck are in violation of Par. 1 of Sect. 2-307 of the Zoning Ordinance, which states:

Except as may be qualified by the provisions of this Ordinance, no structure or part thereof shall hereafter be built or moved on a lot which does not meet all of the minimum bulk regulations presented for the zoning district in which the structure is located, and no structure shall hereafter be used, occupied or arranged for use on a lot which does not meet all of the minimum bulk regulations presented for the zoning district in which such structure is located.

Furthermore, after a review of Fairfax County records, it has been determined that a Building Permit was never obtained for the construction of the deck as required by Sect. 18-601 of the Zoning Ordinance. This provision specifies that:

The erection of all buildings and all structures, as well as additions, deletions and modifications thereto, shall be subject to the provisions of Chapter 61 of The Code, Buildings. No building or structure which is required to have a Building Permit pursuant to Chapter 61 of The Code shall be erected until a Building Permit application has been approved by the Zoning Administrator.

Therefore, you are in violation of Sect. 18-601 of the Zoning Ordinance.

You are hereby directed to clear this violation within thirty (30) days of receipt of this notice. Compliance can be accomplished by:

- Removing the deck from the front yard entirely; and
- Reducing the size of the dwelling to meet the front yard setback requirements for the R-4 District; or
- Applying for and ultimately obtaining approval of a Group 9 Special Permit from the Fairfax County Board of Zoning Appeals (BZA) which would allow for a reduction to the minimum yard requirements based on error in building location; and
- Obtaining a Building Permit.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

Specific instructions and requirements relative to the Special Permit application can be obtained by contacting the Zoning Evaluation Division, 12055 Government Center Parkway, Fairfax, Virginia, telephone (703) 324-1290 between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, should it be the option that you wish to pursue.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-9326 or (703)324-1300.

Sincerely,

James Watson
Code Compliance Investigator
JW/

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards for All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
 - K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, or
 - B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
 - C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
 - E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - F. It will not create an unsafe condition with respect to both other property and public streets, and
 - G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
 - H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.

4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

8-923 *Provisions for Increase in Fence and/or Wall Height in Any Front Yard*

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3l of Sect. 10-104.
2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.
6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.
7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.

- B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls.
 - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of a well and/or septic field.
 - I. If applicable, existing gross floor area and floor area ratio.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
 - K. The location, type and height of any existing and proposed landscaping and screening.
 - L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
 - M. Seal and signature of professional person certifying the plat.
8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.